

Neutral Citation Number: [2017] EWHC 2123 (Ch)
IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

The Rolls Building
7 Rolls Buildings
London EC4A 1NL

Monday, 26 June 2017

BEFORE:

MR M CAWSON, QC
(Sitting as a Deputy Judge of the High Court)

BETWEEN:

BISRAT & OTHERS

Claimant

- v -

KEBEDE & OTHERS

Defendant

MR FRANKLIN EVANS (instructed by Wellers Law Group LLP) appeared on behalf of the Claimant

MR MATTHEW SMITH (instructed by Stone King LLP) appeared on behalf of the Second to Fourth Defendants and the Seventh to Eleventh Defendants

JUDGMENT
(As Approved)

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8th Floor, 165 Fleet Street, London, EC4A 2DY
Tel No: 020 7404 1400 Fax No: 020 7404 1424
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MR M CAWSON, QC:

Introduction

1. This is the trial of a preliminary issue that arises within proceedings concerning an unfortunate dispute that has arisen between two rival groups made up of members of the clergy and laity involved in the affairs of the registered charity no.1060394, known as the Ethiopian Orthodox Church of St Mary Dabra Tsion (“the Charity”) which was registered as a charity on 28 January 1997.
2. The Charity was established pursuant to a resolution of an assembly of the congregation of the church known as the Ethiopian Orthodox Church St Mary of Dabra Tsion ("the Church") passed on 10 November 1991 and the trusts governing the same were formally constituted and established by a trust deed dated 11 June 1992 ("the 1992 Trust Deed") made by Archimandrite Abba AM Gabriel and eight others as trustees. It is common ground between the parties that the 1992 Trust Deed is now to be read together with and as taking effect subject to the terms of certain Bye-Laws known as the Kale Awadi Bye-Laws 2006 ("the 2006 Bye-Laws") which were adopted by the Charity in 2006.
3. The charity holds property on Queenstown Road, Battersea ("the Church Buildings") which are used for the purposes of the Church and the Charity. The Church Buildings are a former Church of England church known as St Phillips, Battersea, that was acquired by the charity in 2011 following several years of successful fundraising.
4. The present proceedings were commenced by way of Part 8 Claim Form on 16 January 2015 and have been brought with the consent of the Charity Commission under s.115 of the Charities Act 2011.
5. At the time of issue, the Claimants claim to have been excluded from the Church Buildings and to have been forced to conduct services outside the Church Buildings. On issuing proceedings, the Claimants sought interim injunctive relief in order to gain access to the Church Buildings. On 13 February 2015, His Honour Judge Purle, QC, sitting as a judge of the High Court, granted interim injunctive relief that restrained the relevant Defendants party to that injunction from preventing the Claimants from gaining access to the Church Buildings and also from gaining access to the Tabot or Ark of the Covenant, thereat.
6. Although certain of the defendants in question initially failed to comply with His Honour Judge Purle QC's order, following the bringing of a committal application against nine of the Defendants and the making by Arnold J of a further order on the hearing thereof, the Claimants have been allowed access to the Church Buildings. This has allowed the Church Buildings, including appropriate access to the Tabot, to be shared by the two rival groups, each of which claim to be entitled to control the Charity.

7. The Claim Form seeks in the prayer thereto (“the Prayer”) relief in the form of answers to, or declarations in respect of a number of questions set out therein, including whether or not the 1992 Trust Deed constituted a valid trust, whether the failure of the congregation to elect or appoint a “*General Council*” of the Church has invalidated nominations, elections, appointments and actions of persons purporting to be trustees, and further questions concerning various steps taken by or on behalf of the Charity.
8. At paragraph (2) of the Prayer, the Claimants sought the determination of the following issue which, as slightly reformulated by the order of Mr D Campbell QC dated 17 May 2017 directing that it be determined as a preliminary issue, reads as follows:

"On the footing that the 1992 deed is effective to create a trust and having regard to the applicable provisions of the Fetha Nagast Ethiopian Orthodox Canon Law providing for only a single patriarch of the Ethiopian Orthodox Holy Synod to be appointed and to retain office for his lifetime, in the events that have happened whether the reference within the 1992 deed to "the Mother Church in Ethiopia which is operating under the spiritual jurisdiction of the Patriarch thereof", of which the church was described as a branch means: (a) the Ethiopian Tewahedo Orthodox Holy Synod presently operating in Addis Ababa under the spiritual jurisdiction of Patriarch Abune Mathias who became Patriarch on February 2013 in succession to Patriarch Abune Paulos who was appointed in June 1992 after the TPLF's victory at the end of a protracted civil war and at a time when the previously appointed Patriarch Abune Merkorios was still living but had been forced to abdicate his office under duress and forced to leave Ethiopia by the TPLF government; or (b) the Ethiopian Tewahedo Orthodox Holy Synod in exile operating under the spiritual jurisdiction of Patriarch Abune Merkorios who was patriarch of the Holy Synod in Addis Ababa at the date when the deed of 11 June 1992 was executed but who was forced to flee Ethiopia when the TPLF regime was installed. Patriarch Abune Merkorios is still living and continues his ministry as patriarch with His Holy Synod in Seattle, Washington State, USA; or (c) that no Mother Church can be identified."

9. The wider difference between the parties is, as is apparent from the Claim Form and the circumstances behind the application for interim injunctive relief in 2015, as to who controls the Charity, a difference that significantly stems from the fact that whilst the 1992 Trust Deed and the 2006 Bye-Laws contain detailed and complex provisions providing for the appointment of a General Council (see the Third Schedule to the 1992 Trust Deed) or an Administrative Council (see Article 6 at seq of the 2006 Bye-Laws), and for the latter to be responsible for the appointment of trustees (see clause 9(c) of the Third Schedule to the Trust Deed) and the appointment of members of the Parish Administrative Council (see Article 7 et seq of the 2006 Bye-Laws), those provisions were not fully carried into effect. As a result, issues have arisen as to the status of those who have, and who now claim to be Trustees of the Charity, the Claimants claiming to

have been validly appointed as trustees in 2013, a proposition which the defendants hotly contest maintaining their own entitlement to control.

10. I was informed during the course of the opening of the case that there is now a measure of agreement between the parties to the effect that the constitution and affairs of the Charity do require to be regularised and elections held in order to resolve who ought to serve as trustees of the charity, going forward. However, I was informed by Counsel for the Claimants that an issue that is preventing an overall resolution of the matter is as to the entitlement of the Patriarch of the Ethiopian Orthodox Tewahedo Church (“EOTC”) based in Addis Ababa, Ethiopia, to interfere in the administration of the Charity.
11. The trial of the present proceedings was initially listed for a ten-day hearing with a view to determining all the issues raised by the claim form. However, in view of the developments that I have referred to, the parties agreed, and the Court ordered at the pre-trial review on 17 May 2017, that the issue identified in paragraph (2) of the Prayer should be tried as a preliminary issue. It is the trial of this issue that I am presently concerned with, and not with the wider issues raised by the Claim Form.
12. So far as representation is concerned, Mr Franklin Evans of counsel appears for the Claimants. The second to fourth and seventh to eleventh Defendants are represented by Mr Matthew Smith of counsel. I am told that the fifth, sixth, twelfth and thirteenth Defendants take a neutral stand. The first Defendant, who took an active part in the interlocutory injunctive proceedings, is, I am told, no longer in the jurisdiction, having returned to Ethiopia. Consequently, he no longer takes an active part in the proceedings. The fourteenth Defendant, Her Majesty's Attorney General, has not taken an active part in the proceedings. For ease of reference, I shall refer to the defendants who do take an active part in defending the claim as "the Defendants" unless otherwise indicated.

The Preliminary Issue

13. The first recital to the 1992 Trust Deed is in the following terms:

"WHEREAS the Congregation of the Church known as THE ETHIOPIAN ORTHODOX CHURCH OF ST. MARY OF DABRA TSION (which Church is a branch of the Mother Church in Ethiopia which is operating under the spiritual jurisdiction of the Patriarch thereof) By a Resolution of an Assembly held at St. Matthew Church St Petersburg Place Bayswater London W.2. on 10th day of November in the year of Our Lord One thousand nine hundred and ninety-one having been founded of the said Congregation thereof is desirous of forming a Charitable Trust to be known as “The Ethiopian Orthodox Church St. Mary of Dabra TSION” and have appointed the Trustees upon the Trusts and for the purposes hereinafter mentioned and the Trustees are desirous that such trusts and purposes should be set forth in a formal deed for the

purposes and objects more particularly set forth in Clause 2 hereof."

Clause 1 of the 1992 Trust Deed provides that:

"A charitable trust called the ETHIOPIAN ORTHODOX CHURCH ST. MARY OF DABRA TSION (hereafter called "the Trust") is hereby constituted and established."

Clause 2 of the 1992 Trust Deed then sets out the objects of the trust in the following terms:

"The objects of the Trust are to propagate the Gospel of Christ by advancing the Ethiopian Orthodox Faith and in particular the Charitable Work of the Ethiopian Orthodox Church St. Mary of Dabra TSION particularly in London and the Home Counties."

14. The preliminary issue, as expressed in the order dated 17 May 2017 and as formulated by reference to paragraph (2) of the Prayer, is thus as to the true meaning of the following words in the first recital of the Trust Deed; namely: "The Mother Church in Ethiopia which is operating under the spiritual jurisdiction of the patriarch, thereof..." of which "the Church" was described as "a branch", and whether such wording means: (a) the Ethiopian Tewahedo Orthodox Holy Synod presently operating in Addis Ababa under the spiritual jurisdiction of Patriarch Abune Mathias; (b) the Ethiopian Tewahedo Orthodox Holy Synod in exile operating under the spiritual jurisdiction of Patriarch Abune Merkorios; or (c) that no other mother church can be identified.
15. Although the preliminary issue was formulated in the above way, raising a question as to the meaning of the words used in the first recital to the 1992 Trust Deed, Mr Evans opened the case on behalf of the claimants on the basis that, as he put it in paragraph 10 of his opening skeleton argument, the preliminary issue raises a composited question requiring the court's ruling: (a) which patriarch, if any, has spiritual jurisdiction over the church; (b) with what, if any, implications for the church. Mr Evans, on behalf of the claimant, submitted that I should answer the question posed by paragraph (2) of the Prayer in the terms set out in paragraph 10 of his skeleton argument; namely, neither patriarch without the decision of a majority of the registered members of the congregation in general assembly.
16. In the course of argument, I queried with Mr Evans whether this approach went beyond the scope of the preliminary issue and raised further issues involving a detailed consideration of further terms of the 1992 Trust Deed, the 2006 Bye-Laws and potentially further resolutions that might be said to impact on the matter, none of which were addressed in a way directed to this approach in Mr Evans' Skeleton Argument or in oral argument before the court.
17. Mr Matthew Smith, counsel for the defendants, submits that I should simply make a declaration in the terms of the first of the options suggested by paragraph (2) of the Prayer, shorn of the pejorative language used therein. He submitted that it could not

properly be the function of the court at the trial of the present preliminary issue, formulated in the way that it has been, to go beyond determining which “Mother Church” the first recital to the 1992 Trust Deed had identified the Church to be in a relationship with as a “branch” thereof as between the alternatives offered by paragraph (2) of the Prayer and, in particular, that it was beyond the scope of the issue, as framed, to also make rulings in respect of the nature of that relationship or whether, for example, it would be open to the Charity, if necessary, to change its objects to express allegiance to a “Mother Church” other than that identified by the recital to the Trust Deed.

18. Mr Smith referred me to correspondence between the parties leading up to the making of the Order dated 17 May 2017 directing the current trial of the preliminary issue in order to show that whilst the Claimants had, in correspondence, sought to widen the scope of the preliminary issue beyond paragraph (2) of the Prayer (and that that had been resisted by the Defendants), ultimately, before the order dated 17 May 2017 was made, the parties had agreed that the preliminary issue should be limited to that raised by paragraph (2) of the Prayer. Thus

(a) In February 2017, the Defendants' Solicitors, Stone King LLP, wrote by email to the Claimants' solicitors, Wellers Legal Group LLP, stating that they had been considering the best way forward and that they wanted the claimant to consider the Charity being reconstituted as a charitable incorporated organisation (a "CIO"). The email attached a proposed governing document on an open basis and invited discussion in relation to the proposed CIO and the attached constitution.

(b) In their response dated 27 March 2017, the Claimants' Solicitors indicated a measure of agreement, or at least scope for agreement, as to the proposed new constitution but flagged up an issue as to the relationship between the Charity and "the rival Patriarchs and Synods of the ETOC," they went on to say this:

"We are taking instructions on the draft CIO document you have provided. Your draft is highly contentious. It refers throughout to the Church when describing the work and objects of the Charity. Our clients in common with the Charity Commission regard the two entities as distinct. It also proceeds from the assumption that the CIO is wholly under the spiritual jurisdiction, practical instigation and control of the Patriarch and Synod of Addis Ababa and their appointees. Given the acknowledged fact of schism within the Ethiopian Tewahedo Orthodox Church Worldwide, which began in 1992, is now very longstanding and is, apparently, permanent, this approach to the governance of the Charity is unacceptable to our clients and their supporters. The dispute is well documented in the evidence and the statements of issues and need not be rehearsed in detail. It is regrettably clear that there can be no agreement between all the parties on this point. It is also clear that it is potentially decisive in that whichever way that issue is determined, all the other matters requiring determination in the forthcoming trial appear more or less susceptible to agreement. It seems to us that neither party would require a ten-day trial if this issue were resolved.

We, therefore, make the proposal that the parties bring this aspect of the matter to the court for determination as a discrete issue with a view to obviating altogether the need for the trial currently listed in June.

It is necessary to agree a definition of the issue that will truly resolve the dispute.

The Claimants' Solicitors then suggested the following formulation of the issue:

"...in circumstances where:

(1) an unincorporated charity was formed by resolution of the members of the Congregation of the Ethiopian Tewahedo Orthodox Church of St Mary Dabra Tsion in accordance with the terms of a deed drafted in 1991 and adopted in 1992;

(2) its charitable objects were expressed to be to propagate the Gospel of Christ by advancing the Ethiopian Orthodox Faith and, in particular, the Charitable Work of the Ethiopian Orthodox Church of St Mary Dabra Tsion, particularly in London and the Home Counties;

(3) the Ethiopian Tewahedo Orthodox Church worldwide has been in a state of schism since 1992 with Patriarchs and Synods in Addis Ababa and in exile in the USA asserting rival claims to supreme authority;

(4) there is no theological or doctrinal difference between the Ethiopian and Tewahedo Orthodox Christian Faith as professed by each of the rival Patriarchs and Synods;

(5) between 1992 and 2013, when dispute over the issue arose, the Charity continuously performed its functions without the members of the Congregation having resolved or elected to accept the claims of either Patriarch or Synod;

Whether it is consistent with the registered objects of the Charity, and in keeping with the terms of the Charitable Trust for the registered members of the Congregation by a vote of a majority in General Meeting to elect to accept the authority of either of the rival Synods and Patriarchs or to accept the authority of neither."

- (c) In their reply dated 28 April 2017, the Defendants' Solicitors took issue with this. They stated that the crucial issue to decide was that raised by paragraph (2) of the Prayer and they objected to the Claimants, as they put it, mis-describing as a preliminary issue what they described as a wholly new issue raised in the Claimants' Solicitor's letter of 27 March 2017. As to the new issue, they went on to comment that they were far from sure that it was justiciable and that it was not

an issue on which the Charity Commission had given its consent under s.115 of the Charities Act 2011. They continued in their letter as follows:

"Any new constitution will govern the Charity. The issue on which resolution is required is whether the property held on the terms of the current Trust Deed is held for the purposes of a Church overseen by a Patriarch in Ethiopia or in America or nowhere. The issue is not whether individual members of the congregation for the time being can alter their personal allegiance (they can), or whether members of the congregation can by a majority alter the objects of the trust (they cannot unless a cy-près occasion has arisen - see s.62 of the Charities Act 2011 and the decision of the Supreme Court in *Shergill v Khaira* [2015] AC 359, especially at paragraphs 52 to 59).

The purported justification for the new issue; namely, that is necessary for settling a new constitutional document does not, therefore, bear scrutiny. We repeat our client's request, that your clients should state whether they agree with our clients that the charity's property is to be held to further the work of the branch of the Mother Church overseen by the Patriarch in Ethiopia. If so, we can seek quickly to finalise a new constitutional document on that basis with interim arrangements, if necessary. If not, the court must resolve that issue in order that the terms on which the Charity's property is held can be resolved. For their part, our clients would be content for the court to rule simply on this issue, ie, that raised by paragraph 10.2 of your client's Claim Form as a preliminary issue in the existing trial window commencing on the 19 June 2017."

(d) Wellers Law Group LLP, by letter dated 5 May 2017, responded on behalf of the Claimants in the following terms:

"In response to your letter dated the 28 April 2017, we write to confirm that our clients are agreeable to the questions raised in paragraph 10.2 of the Part 8 Claim Form being dealt with as a preliminary issue within the current trial listing. We also agree four days is the likely length of trial. This reflects the centrality of the issues concerning the relationship between the Charity and the rival Synods and Patriarchs which has been clear from the start of the proceedings and which is likely to hold the key to a resolution of the matter as a whole. We propose that the PTR be prepared for on that basis and look forward to liaising with you in respect of any further directions that may be needed and bundles, et cetera."

19. It follows that it was in the light of the agreement expressed in Wellers Law Group LLP's letter of 5 May 2017 that the court came to make the order that it did on 17 May 2017, directing the trial of the preliminary issue by reference to paragraph (2) of the Prayer and not by reference to the preliminary issue that had been formulated in

Wellers Law Group LLP's letter of 28 April 2017. Mr Evans is, essentially, asking me to decide the preliminary issue that Wellers Law Group LLP had raised in their letter dated 27 March 2017 that was not then pressed in the face of Stone King LLP's objections in their letter of 28 April 2017. Mr Evans does, to my mind, seek to widen the preliminary issue actually directed to be determined beyond its proper scope and, whilst I consider that I can properly determine the identity of the Mother Church that the first recital to the 1992 Trust Deed identified the Church as being a branch of, I do not consider that it would be appropriate for me to consider wider questions as to the nature of scope of the relationship between the Church or the Charity and the Mother Church in question, nor whether it is open to the Church or the Charity to change allegiance between Patriarchs and/or Synods, not only because that is beyond what the Court directed by way of preliminary issue, but also because the arguments advanced in the Skeleton Arguments and oral submissions have simply not been directed at a proper determination of those issues by reference to the relevant provisions of the 1992 Trust Deed and the 2006 Bye-Laws.

Evidence

20. I have heard from three witnesses called by the Claimants; namely, (a) Getachew Beshahwed ("Mr Beshahwed"), a chartered accountant, and a member of the Congregation of the Church since 1992; (b) the Rev. Melake Berhan Berhanu Bisrat ("Rev. Bisrat"), the first named Claimant, who began to serve as a priest at the church in 1993 and was Priest-in-Charge between 1995 and 2003; (c) Mr Zelealem Tessema ("Mr Tessema."), a local government officer who joined the Congregation of the Church in 1995.
21. The Defendants called the following four witnesses; namely, (a) the Rev. Gebre-Georgis Dimtsu ("Rev. Dimtsu"), who was one of the parties and founding trustees under the 1992 Trust Deed, and who has served the Church since 1975; (b) the Rev. Like Tiguhan Teklemarian Edwards, who is Chairman of the Clergy Council of the Church which he has served for 36 years; (c) the Rev. Kefeyalew Aschalew, who is Priest-in-Charge and Chairman of the Parish Administrative Council and the Trustees of the charity known as the Debre Genet Holy Ethiopian Orthodox Tewahedo Church, (charity number 1124941); and (d) the Rev. Davit Abebe Worku, the fourth Defendant, ("Rev. Worku").
22. The witness statements of the various witnesses provide helpful background, particularly as to the history of the EOTC, and of the Church and the Charity. However, subject thereto and save as indicated in this judgment their evidence has been of limited assistance in deciding the issue that requires to be decided as a preliminary issue.

Justiciability

23. The underlying dispute in the present case is not one as to religious doctrine, but stems from political and ethnic differences that I shall return to, that have led to differences in turn regarding the governance of the Charity highlighted by the relief sought by the Claim Form. Whilst the Courts will decline to decide issues concerning the truth or

reasonableness of any of the doctrines of a religious association, there is no objection to the Court deciding matters of disputed legal right concerning such an association, even though this might involve some consideration of those doctrines for the purposes, thereof (see *Shergill v Khaira* [2015] AC 359 at 49 to 53). No party has sought to suggest that any of the issues currently raised in the present proceedings are not justiciable by this court.

24. In order to determine the preliminary issue that I am required to decide, it is necessary for me to first consider the history of the EOTC, and of the Church and the Charity, and to then consider any further evidence relevant to the construction issue that I am required to determine.

The Ethiopian Orthodox Tewahedo Church

25. The EOTC has been established for nearly 2,000 years and has a worldwide membership of some 48 million believers. It is, I am told, the largest of the Oriental Orthodox churches descended from the ancient Patriarchates of Alexandria, Antioch and Jerusalem, which declined to accept the Church Council of Chalcedon of 451 relating to the “dual nature” (divine and human) of Jesus Christ. The word "Tewahedo" means “unified”, referring to a single unified nature of Christ as opposed to the dyophysite belief in the divine and human natures of Christ held by the Roman Catholic, Eastern Orthodox and Protestant churches.
26. The EOTC is regulated by a number of canonical laws, including the Fetha Nagast, otherwise known as the Law of Kings. The EOTC is a hierarchical church founded upon apostolic succession and its clergy include a Patriarch, Bishops (and Archbishops), Priests and Deacons. Its governing body is a Holy Synod, historically based in Addis Ababa.
27. Individual parish churches are regulated by a text known as the Kale Awadi, of which there have been three editions; a first edition operative between 1972 and 1978, a second edition operative between 1978 and 1998 and a third and current edition operative from 1998.
28. EOTC churches are not considered to be churches until the Bishop grants a “Tabot”, a replica of the tablets in the original Ark of the Covenant. It is the Tabot that is consecrated and not the church, and the Tabot plays a key part in worship because key liturgical rites require the proximity of the Tabot, and the eucharistic elements require to be physically placed upon the Tabot. The Tabot, therefore, occupies a position of central importance in all aspects of Tewahedo theology and religious observance, and access by believers to physical proximity to the tablet is of fundamental importance.
29. Between 328 and 1959 AD, the Ethiopian Orthodox Church was a diocese of the Coptic Orthodox Church of Alexandria ("the COCA"), St Athanasius of Alexandria, the 20th Pope of the Coptic Orthodox Church, having consecrated the first bishop of the diocese of Ethiopia in 328AD. In 1959, the EOTC was granted its own Patriarch by the then Coptic Pope and Patriarch of All Africa, Cyril VI. The relevant protocol granted the EOTC its own Patriarch and also its own Holy Synod which was

established in Addis Ababa. The Patriarch is an important figure in that he presides over the Holy Synod and has power to appoint Bishops and Archbishops. This Holy Synod, established and based in Addis Ababa, is the governing body of the EOTC as recognised by the COCA and the World Council of Churches, and is the body that elects a new Patriarch.

30. His Holiness Pope Cyril VI of the COCA crowned or consecrated His Holiness Abune (which means the Most Rev.) Basilios as the first Patriarch on 28 June 1959. The first patriarch died on 12 October 1970. The Holy Synod then elected His Holiness Abune Theophilos as the second Patriarch ("the Second Patriarch"), and he was consecrated by the Patriarch of the COCA in Addis Ababa on 9 May 1971. In 1974, the government of Emperor Haile Salassi fell to a Marxist military junta known as the Derg regime. The Derg regime began to nationalise property owned by the EOTC and came into conflict with the second Patriarch who was arrested and subsequently died, quite possibly executed by the Derg regime. Following an election of the Holy Synod, His Holiness Abune Takla Haymanot was consecrated as third Patriarch ("the Third Patriarch") in 1976. There is a conflict on the evidence before me, which I do not feel that I need to resolve, as to whether the consecration of the Third Patriarch took place before or after the death of the Second Patriarch.
31. The Third Patriarch died in May 1988, whereafter the Holy Synod elected His Holiness Abune Merkorios as fourth patriarch ("the Fourth Patriarch"). The Marxist Derg regime fell in 1991 to be replaced by the Ethiopian People's Democratic Front government, a leading element of which is and remains the Tigrayan People's Liberation Front ("the TPLF").
32. It is the Claimant's case that the Fourth Patriarch was accused by the new regime of collaborating with the Derg regime, that pressure was placed upon him and that a government announcement was made that he had resigned due to ill health. The Claimants say that the new regime insisted that the Holy Synod elected a new Patriarch which led to His Holiness Abune Paulos, a Tigrayan, being appointed as a fifth patriarch ("the Fifth Patriarch"). It is the Claimant's case that the Fourth Patriarch, having been deposed in this way, subsequently fled abroad to the United States from where he announced that his departure had been under duress and that no successor could be validly appointed; a position and stand plainly rejected by the Holy Synod in Addis Ababa. As appears from the wording of the preliminary issue, itself, the Fourth Patriarch has, since fleeing to the United States of America, established a rival Holy Synod in exile.
33. In his witness statement, Rev. Worku, on behalf of the Defendants, refers to having been informed by His Grace Archbishop Abune Gabriel, that on 24 August 1991, the Fourth Patriarch called an extraordinary general meeting attended by more than 25 Archbishops at which he announced that he was not able to hold office and that the Holy Synod needed to find a successor as he was relinquishing office as Patriarch. Rev. Worku says that he has further been informed by the same source that the Holy Synod accepted the Fourth Patriarch's abdication, and appointed a caretaker until the Fifth Patriarch was elected and then consecrated on 11 August 1992.

34. I was referred to certain documentation that was said to be contemporaneous to these events in the form of an announcement signed by Archbishop Aba Nikodimos, as General Secretary of the Holy Synod, dated either 14 September 1991 or 14 September 1992 (the date is unclear), stating that in accordance with certain instructions of His Holiness the Patriarch for the Holy Synod to take over the running of the Church on grounds of his illness, the Holy Synod, at its meeting held on 5 September, had elected five Bishops to lead the activities of the Church. I was also referred to a letter signed by Archbishop Zena Markos, dated either 9 October 1991 or 9 October 1992 (again the date is unclear), addressed to His Holiness Abune Merkorios (i.e. the Fourth Patriarch) setting out that during its meeting of 3 September (or that might have been 5 September) the Holy Synod had decided that His Holiness should “get rest and medication” and that his accommodation “should be arranged as per his desire”, and pointing out that His Holiness had not yet left the patriarchate and that “pressure had continued mounting from all directions”.
35. As I indicated, there is some question as to the date of these documents. This is down to the difficulty in reading the date on the original language version thereof. I consider that these documents (and it is not contested they are not original documents) must have been dated 1991 because by September 1992 and October 1992, there is no doubt that the next (fifth) Patriarch had been consecrated, and that would be inconsistent with the contents thereof. These documents do provide some evidence of pressure being placed on the fourth Patriarch to stand down, but also of decisions being taken by the Holy Synod to appoint five Bishops to act in his place during some form of interregnum.
36. The Fifth Patriarch, who as I have said was consecrated on 11 August 1992, died in 2012. His Holiness Abune Mathias was elected by the Holy Synod as sixth patriarch and consecrated on 3 March 2013 ("the Sixth Patriarch").
37. There is no difference in theology, faith or doctrine between the Fourth Patriarch in exile on the one hand, and the Fifth, and now Sixth Patriarchs on the other hand. The difference is down to political and ethnic differences and the view taken towards the government in place in Ethiopia since 1991, with exiles in the United Kingdom being divided on the issue. It is this division that essentially explains why the parties to the present proceedings have adopted the different positions that they have in respect of the current litigation and control of the Charity.
38. The Claimants are predominantly non-Tigreans who oppose the current government in Ethiopia, which Mr Tessema alleged during the course of his evidence was guilty of what he described as “ethnic apartheid”. This explains the allegiance of some of those in the Claimants' camp to the Fourth Patriarch in exile, although it is right to say that those in the Claimant's camp do not speak with one voice on the issue of allegiance to the Fourth Patriarch as opposed to allegiance to the Holy Synod in Addis Ababa and the Sixth Patriarch. The allegiance of the Defendants, on the other hand, is to the Holy Synod in Addis Ababa and the Sixth Patriarch.
39. There is included within the bundle a letter dated 26 August 2015 from Bishop Angaelos, General Bishop of the Coptic Orthodox Church in the United Kingdom, addressed to the Defendant's Solicitors. Although Bishop Angaelos did not

give evidence and was not, therefore, cross-examined on the contents of this letter, it is not suggested that this letter is not genuine and I feel able to accept from this letter that the Coptic Orthodox Church recognises the Sixth Patriarch as Patriarch of the EOIC and did so recognise the Fifth Patriarch. Bishop Angaelos refers to the consecration of the Sixth Patriarch as having been attended by the hierarchs of the EOTC as well as the Coptic Orthodox, Armenian Orthodox, Malandra Orthodox and Syrian Orthodox Churches as well as guests including representatives of the Roman Catholic Church and the Anglican Communion. The letter also refers to the Sixth Patriarch being recognised as Patriarch of the EOIC by the World Council of Churches, and to the Fifth Patriarch having served as President of the World Council of Churches.

40. The claimants have sought to argue that there are provisions within the Fetha Nagast which provide that there can only be one Patriarch and that as the Fourth Patriarch is still alive, he is still properly to be regarded as Patriarch of the EOIC. For reasons that will become apparent, I do not consider it necessary or, indeed, appropriate to attempt to decide this issue, not least given that the reality is that the Holy Synod in Addis Ababa, as well, so it would seem, as other Oriental Orthodox churches and other leading churches throughout the world, recognise the Sixth Patriarch as Patriarch of the EOIC. Had I been required to decide this issue, then I would have tended to the view that the Fetha Nagast recognises that a Patriarch can resign and that the Fourth Patriarch did resign, albeit in all probability under considerable pressure to do so. However, there is not the evidence before me to allow me to come to a firm conclusion in respect of this, being an issue that would require more detailed evidence and probably some expert evidence as to the practice of the EOTC, before being capable of being properly determined.

The history of the Church and the Charity

41. The Church and its Congregation was established in 1975. The then Patriarch, the Second Patriarch, sent a priest, Archimandrite Aba AW Gabriel, later known as Abune Yunis and consecrated as Bishop of Europe to, the United Kingdom to minister to the group of Tewahedo believers in London. Abune Yunis brought with him a Tabot dedicated to the Church and awarded by the Patriarch. The Church was governed by the canonical laws of the church, including the Fetha Nagast and the Kale Awadi.
42. As the recitals to the 1992 Trust Deed record, an assembly of the Congregation of the church resolved to establish a charitable trust on 10 November 1991 and that trust was formalised by the 1992 Trust Deed. It is unclear how widely events in Ethiopia concerning the fate of the Fourth Patriarch were known by the Congregation of the Church. I regard it as highly likely that certain of the clergy, at least, would have been aware of events in that Rev. Dimtsu, who was a party to the 1992 Trust Deed, said in his witness statement that at the time that the resolution to establish the Church was passed on 10 November 1991 and, therefore, when the 1992 Trust Deed was executed the following June, the Fourth Patriarch was not in office as Patriarch and that it was known that he had announced his resignation, whether under pressure or otherwise. It is less clear, however, what others within the Congregation knew. However, I do not consider this question of knowledge of the Congregation to be a matter of key importance.

43. So far as the terms of the Trust Deed are concerned, the terms of the 1992 Trust Deed, amongst other things: (a) provided for the regulation of the composition of the Trustees providing, amongst other things, that the majority of Trustees must be members of the General Council of the Church; (b) specified the trusts upon which land and buildings belonging to the Charity should be held; (c) provided for the election of a General Council with rules and regulations set out in the third schedule thereto; and (d) at clause 10, provided that the terms of the 1992 Trust Deed might "only be amended by Resolution of the registered members of the Congregation passed by a majority in general meeting duly and properly convened".
44. There are few points in respect of the history of the Church between 1992 and the adoption of the 2006 Bye-Laws that I should mention.
45. The Fifth Patriarch, His Holiness Abune Paulos, visited the Church in October 1993. The evidence of the Claimants and, in particular, that of Mr Beshahwed, was that there was a mass demonstration against his visit and interference in the Church. The evidence of Rev. Dimtsu, on the other hand, was that the Fifth Patriarch was welcomed and accepted into the church without apparent upset or disturbance. A Daily Telegraph report of the visit does report a disturbance and the making of six arrests. My overall impression is that Rev. Dimtsu was downplaying the protest, which I accept occurred. However, I consider that while there was some protest and disturbance, the Fifth Patriarch was welcomed into the church, at least by the presiding clergy at the time, as Patriarch.
46. Mr Beshahwed says that when Abune Yunis, who by then had become a Bishop, died in 1997, his successor, Rev. Bisrat, was appointed Administrator (that is a priest-in-charge) by the members of the Congregation and that no Patriarch, Archbishop or Bishop was involved in his nomination, selection or appointment. However, I do note that there is some correspondence from the Holy Synod in Addis Ababa relating to these events, including a letter dated 31 December 1997 from the Fifth Patriarch to Rev. Bisrat informing him that he was "...hereby assigned as acting head of the London based Dabra Tsion St Mary's Church until an Administrator is appointed to the position...", and also some correspondence dated 2 April 1998 and 8 August 1998 between the Fifth Patriarch and Birku Bebre Amanuel relating to his appointment as temporary Administrator to the Church and his subsequent recall to Addis Ababa. This correspondence is, to my mind, not inconsistent with the Church or the Charity exercising a degree of independence in the selection of the Priest-in-Charge but does show some continuing association between the Charity and the Holy Synod and Patriarch in Addis Ababa.
47. In May 2005, elections were held in Ethiopia resulting in a re-election of the Ethiopian People's Democratic Front government. A significant number of people were, I am told, killed protesting against the way in which the elections had been conducted. There is evidence to the effect that the Fifth Patriarch refused to pray for those who had been killed, many of whom were EOTC members. This led to the Church passing a resolution, and I quote from the relevant minute:

"Regarding the crimes committed and betrayal of trust of the [EOTC] and our fellow Ethiopians by Patriarch Paulos..."

There is an issue between the Claimants and the Defendants as to whether, as the Claimants maintain, the resolution was passed by a general meeting of both clergy and laity or, as the Defendants maintain, or just one of those branches. Of the resolutions passed:

- (a) Resolution 1 refers to the fact that the church: "...has been elevated to a diocese level through tireless efforts of her founding Bishop, Abune Yunis, and has so far maintained a direct accountability to the national Synod;
 - (b) Resolution 6 stated that the Church: "...declines to address Aba Paulos as His Holiness and declares that she does not acknowledge him as patriarch”;
 - (c) However, resolution 7 went on to state that "the properties and finances of the Ethiopian Church to be centrally and transparently managed by trustworthy professionals under supervision of Holy Synod."
48. The 2006 Bye-Laws were adopted in 2006. They are set out in a lengthy 59-page document. Given the fact that their adoption was accepted by all parties before me and given that no party challenges the adoption thereof, I have not examined the circumstances of their adoption. The preamble thereto refers to the purposes thereof as being to, amongst other things, “encompass” the Church Proclamation (Kale-Awadi) and Trust Deeds”, and also refers to the 2006 Bye-Laws being required to enable compliance with charity laws and the laws of the Kale Awadi.
49. As I read and understand it, the 2006 Bye-Laws adopted some of the generic material contained in the third edition of the Kale Awadi, but in other important respects the 2006 Bye-Laws are bespoke to cater for the Charity's position as a distinct charity.
50. The following points should be noted about the 2006 Bye-Laws:
- (a) Article 2 thereof defines:
 - (i) The "Holy Synod" as meaning: "...the highest decision-making body of the Ethiopian Orthodox Tewahedo Church which is based in Addis Ababa, the capital city of Ethiopia and which consists of the Patriarch, Archbishops and Bishops of the Church and makes decisions on matters of creed and on spiritual administration”;
 - (ii) “Diocese” as meaning: “...the region the continent of Europe where an Archbishop appointed by the Holy Synod dispenses spiritual and administrative services to the Ethiopian Orthodox Tewahedo Churches found therein”;
 - (iii) “Parish Administrative Council” as meaning: “...the Executive Committee whose members are elected by the General Council Congregation Assembly. It is a body which acts as an administrative

centre to the councils, sub-committees and work units. It serves these bodies with guidance in administrative matters”;

- (b) The 2006 Bye-Laws provide for and contain detailed provisions regulating a number of bodies, including a “General Council Congregation Assembly”, a “Parish Administrative Council”, a “Clergy Council”, and a “Law and Order Council”;
- (c) Articles 4.1 and 4.3 thereof, under the heading "Objectives of the Parish Council", provide as follows:
 - “4.1 Because of the location of our Church, far away from the Mother Church, the first objective is to provide administrative structure which is adapted to the objective local condition structure which is centralised but accountable, thus enabling all clergy and laity to participate at all levels;
 - ...
 - 4.3 Considering that followers of our Church live in a society that has a different language, faith and culture, another objective is engagement in development activities to have self-owned church building, school and other facilities which enable us to transmit to church and youth the future caretakers of the church, our own faith, way of life, culture, morality and language”;
- (d) Article 7 et seq. thereof contains detailed provisions for the election of the Parish Administrative Council and sub-committees;
- (e) Article 12 is headed "Endorsing Election Results", and provides for the Diocese to be informed of the result of elections for the Parish Administrative Council and, likewise, for the Charity Commission to be so informed. The Diocese is not, it would seem, given a power of veto, but mechanisms are provided for resolving objections concerning irregularities backed by evidence;
- (f) Article 35 is headed "Election Procedure for Clergymen". At the conclusion of the procedure for the election of the Administrator, the Parish Administrative Council... "informs the results to the Bishop of the Diocese in writing."
- (g) Article 49 is headed "Regarding the High Representatives of the Archbishop of the Diocese”, and provides that.. "by permission of the Holy Synod of the Ethiopian Orthodox Tewahedo Church, the Bishop has responsibilities in the provision of guidance and administration to the churches of the Ethiopian Orthodox Tewahedo Faith in Britain or in Europe. This being the case, the

relationship of the Archbishop vis-à-vis the Parish Administrative Council of the Ethiopian Tewahedo Church of St Mary of Dabra Tsion is at the level of Diocese and Parish Church in accordance with Article 44 of the Church proclamation Kale Awadi.”

51. I have been referred to Article 44 of the latest version of the Kale Awadi. Whilst the parties have not been able to agree the precise wording of the translation thereof, what this does is to set out the responsibilities and duties of the Archbishop of the Diocese.
52. What purported to be an Extraordinary General Meeting of the members of the Charity took place on 14 and 21 February 2013 at which resolutions were passed purporting to amend the 1992 Trust Deed and to appoint the Claimants as trustees. The validity of these resolutions is very much an issue between the parties, although the apparent agreement between the parties that the constitution requires to be regularised and that new elections are required in order that matters be resolved, is encouraging and indicates that the parties may have moved on from that position. I note that one of the resolutions purported to have been passed on 21 April 2013 (resolution 1.9) was in the following terms:

"The charity's relationship with the Mother Church in Ethiopia and with the Patriarch thereof is of a spiritual nature relating to input on spiritual matters only and for the avoidance of doubt the Mother Church in Ethiopia shall not have authority to manage or administer the charity which functions must be carried out within the UK in accordance with applicable charities law. For the avoidance of doubt, trustee appointments shall be carried out only in accordance with the amended Trust Deed of 14 April 2013 and 21 April 2013."

53. I would finally note, so far as the history of the Church is concerned, that whilst some but not all of those within the claimants' camp might profess allegiance to the Fourth Patriarch in exile rather than to the, now, Sixth Patriarch, there is no evidence of any formal communication or connection between the Fourth Patriarch in exile and the Charity or the Church. To the contrary, as evidenced in part by the communications that I have referred to, formal communication, if any, has been with the Holy Synod in Addis Ababa and the Patriarch recognised by that synod, albeit that the relationship between the Church or Charity and the Holy Synod in Ethiopia and/or the Patriarch recognised by that synod might, as Mr Smith at one stage put it, at times have been akin to the relationship between a mother and a naughty child.

The correct approach to the preliminary issue

54. Construing the meaning of words contained in a Trust Deed establishing a charity involves no different an approach to that adopted in construing the meaning of any other inter vivos documents, the task of the court being to seek to ascertain what the words used would have meant to a reasonable person who has all the background knowledge that would have been available to the parties in the situation that they were at the time of the relevant document (see Lord Clarke in *Rainy Sky SA v Kookmin Bank*

[2011] 1WLR 2900 at [21], a decision of the Supreme Court, as more recently approved and applied by the Supreme Court in *Wood v Capita Insurance Ltd* [2017] 2 WLR 1095 at [11] per Lord Hodge, and see also *Tudor on Charities*, 10th Edn 2015, at paragraph 7-001.

55. Although permissible to have regard to the background knowledge available to the parties, it is not permissible as an aid to construction to have regard to such matters as the subjective intentions of the parties or the parties' subsequent conduct in performance of the document in question. However, as I have touched upon, a complicating factor in the present case is that all parties recognise that the 1992 Trust Deed is to be read together with the 2006 Bye-Laws, which it is agreed have binding effect, and, that being the case, I consider that my task is to construe the relevant wording of the 1992 Trust Deed as matters stood prior to the adoption of the 2006 Bye-Laws and to then consider whether matters were in any way changed or altered once the 2006 Bye-Laws had been adopted so as to require the wording of the first recital to the 1992 Trust Deed to be viewed differently, thereafter.
56. In order to understand the effect of the 2006 Bye-Laws, I consider that it must be permissible for me to consider the background circumstances available to the parties at that time, ie, to the Charity and those behind it, at the time of the 2006 Bye-Laws being adopted in 2006. Consequently, evidence as to events between 1992 and 2006 might potentially be of relevance in informing those background circumstances.

The Recital to the 1992 Trust Deed

57. I have no doubt that any reasonable person informed of the background circumstances would, as at the date of the 1992 Trust Deed, have understood the relevant words of the recital; namely, “the Mother Church in Ethiopia which is operating under the spiritual jurisdiction of a Patriarch thereof” of which the Church was expressed to be a branch, as referring to the Ethiopian Tewahedo Orthodox Holy Synod then, as now, operating in Addis Ababa under the spiritual jurisdiction of the Patriarch as recognised by that Holy Synod.
58. I reach this conclusion for the following principal reasons:
- (a) The church had been founded by a priest sent out by the Second Patriarch from Addis Ababa to establish a branch of the EOTC in London. The priest in question, Archimandrite Aba A.W. Gabriel, became the first Priest-in-Charge of the Church, subsequently being consecrated, as the first Bishop of Europe, and in that capacity known as His Grace Archbishop Aba Yohannes. Abba A.W. Gabriel was a party to the 1992 Trust Deed and appointed as one of the first trustees of the charity. Consequently, unless there was some change of circumstances, one would expect the Mother Church referred to in the recital to the 1992 Trust Deed to be that from which Aba AW Gabriel had been sent. As at November 1991 and, indeed as at June 1992, it is difficult to see any other Mother Church could have been intended;

- (b) As at June 1992, there was only one Holy Synod; namely, that operating in Addis Ababa. The Fourth Patriarch had yet to establish a rival Holy Synod in exile in Seattle. A reasonable, objective observer could not, therefore, have understood the words of the recital to be referring to a Holy Synod operating in exile in Seattle, USA, as opposed to the Holy Synod already operating in Addis Ababa;
- (c) By June 1992, if not also November 1991, it is likely to have been known that the Fourth Patriarch was no longer regarded by the Holy Synod, in Addis Ababa at least, as Patriarch, whether he had resigned through ill health or had been forced from office under pressure from the new government. We have seen from the evidence of Rev. Dimtsu, who was also a party (as trustee) to the 1992 Trust Deed, that Abba A.W. Gabriel was well informed as to events in Addis Ababa. Had there been an intention at that point in time to ally with the Fourth Patriarch, in preference to the Holy Synod in Ethiopia and that “Mother Church”, then one would have expected the 1992 Trust Deed to have expressly so stated;
- (d) The third alternative offered by paragraph (2)(a) of the Prayer is that no Mother Church can be identified. However, the recital to the 1992 Deed of Trust identified a “Mother Church” of which the church is said to be a branch. I can see no possible basis for finding that the reasonable objective observer would have concluded that no “Mother Church” could be identified having regard to the background circumstances that I have described;
- (e) Further, even if it had been open to me as a choice, which it is not for reasons that I have already explained, I can see no proper basis for finding that the reasonable objective observer, looking at the language of the first recital to the 1992 Trust Deed, would have concluded that the parties meant by that language such Holy Synod or Patriarch as the members might by majority of registered members of the Congregation in General Meeting decide. I consider this to be so, not least because the Church was described as being a branch of the Mother Church in question and there was not at the time of the 1992 Deed any rival Mother Church.
- (f) I consider that the key words in the recital are "the Mother Church in Ethiopia." I agree with Mr Smith's submission that the additional words “which is operating under the spiritual jurisdiction of the Patriarch thereof”, are descriptive. It is, essentially, for this reason that I consider that, for the purposes of the 1992 Trust Deed, the Patriarch referred to in the first recital is to be taken to be the Patriarch elected from time to time by the Holy Synod in Addis Ababa and recognised by that Holy Synod as its Patriarch, whatever the strength of objective third party criticism that might be available as to the constitutionality of the appointment of the particular Patriarch in question.

The Effect of the 2006 Bye-Laws

59. Mr Evans submits that I should approach any consideration of the terms of the 2006 Bye-Laws having regard to the background circumstances that, he submitted, demonstrated the Charity to have acted independently of the Patriarch and Addis Ababa in the ways that I have touched upon and with particular regard to the resolutions passed on 15 January 2006 and, in particular, resolution 6 that stated that the Church "*declined to address Abune Paulos His Holiness*" and declared that she does not acknowledge him as Patriarch. Whilst resolution 6 might have provided as it did, I read other resolutions passed on 15 January 2006 as affirming allegiance to the "Mother Church" within the meaning that I have held was intended by the words of the recital to the 1992 Trust Deed. I refer, in particular, to resolution 1 making reference to the Diocese, and resolution 7 making reference to the supervision of the Holy Synod which can only, as I see it, have been a reference to the Holy Synod in Addis Ababa. Further, I do not read any other actions or conduct that I have been referred to as a rejection of the "*Mother Church*" in that sense. Further, I read the rejection of the Fifth Patriarch as a result of the events following the election in Ethiopia in 2005 as being a rejection of him, personally, rather than a rejection of the authority of the office of Patriarch, or as a rejection of the Holy Synod in Addis Ababa.
60. When it comes to the terms of the 2006 Bye-Laws, they do, in my judgment, confirm and not undermine what I have held to be the proper construction of the words "Mother Church in Ethiopia which is operating under the spiritual jurisdiction of the patriarch, thereof"; namely that they refer to the Ethiopian Tewahedo Orthodox Holy Synod then and now operating in Addis Ababa under the spiritual guidance of the Patriarch as recognised by the Holy Synod.
61. I reach this view for the following principal reasons:
- (a) The 2006 Bye-Laws are based upon the structure for the administration of a Church provided for by the latest version of the Kale Awadi, hence being described as the "Kale Awadi Bye-Laws 2006", and the preamble refers to the 2006 Bye-Laws being required to enable the Charity to comply both with charity law and the laws of the Ethiopian Tewahedo Church Proclamation, Kale Awadi. The 2006 Bye-Laws are, therefore, intended to relate to, in some way, the institutions of the EOTC;
 - (b) The institutions that the 2006 Bye-Laws then referred to are, as I see it, unequivocally, those of the Mother Church, with a Holy Synod in Addis Ababa and not elsewhere. Hence:
 - (i) The definition of Holy Synod referring to the latter being "based in Addis Ababa";
 - (ii) The definition of Diocese as meaning the region or continent of Europe where an Archbishop appointed by the Holy Synod, ie, that based in Addis Ababa, dispenses spiritual and administrative services to the EOTC churches found therein;

- (iii) Article 49 which provides that the relationship vis-à-vis Archbishop and Parish Administrative Council of the Church is "at the level of Diocese and Parish Church in accordance with Article 44 of the Church Proclamation, Kale Awadi;
 - (iv) Other provisions provide for the Diocese to have some role, at least, in the operation of the 2006 Bye-Laws;
- (c) There is certainly no indication from the 2006 Bye-Laws that they were looking to a Holy Synod in exile; to the contrary, for the reasons that I have expressed.

Conclusion

62. It follows that, as I do not consider that the adoption of the 2006 Bye-Laws means that the relevant words of the recital to the 1992 Trust Deed should be read in any different way than if the 2006 Bye-Laws had not been adopted, it is my judgment that the preliminary issue should be answered in the first of the three alternatives suggested by paragraph (2) of the Prayer, suitably modified so that the appropriate declaration should read: "On the footing that the 1992 Trust Deed is effective to create a trust, and in the events that have happened, it is declared that the reference in the recitals to the 1992 Trust Deed to "the Mother Church in Ethiopia which is operating under the spiritual jurisdiction of the Patriarch thereof", of which the Church was described as a "branch", means the Ethiopian Tewahedo Orthodox Holy Synod operating in Addis Ababa under the spiritual jurisdiction of a Patriarch elected and recognised from time to time by that Holy Synod as Patriarch."

Post script

63. I should make it clear that I have made no findings as to the scope or extent of the powers of amendment provided for by clause 10 of the 1992 Trust Deed which might potentially, at least, extend to a change in the objects of the Charity. Although touched upon by Mr Smith and by Stone King's letter dated 28 April 2017, this does, itself, raise difficult issues, not least as to what might happen to property owned by the Charity and, in particular, the Church Buildings, in that event.
64. Further, the Charity is, of course, a separate and distinct charity with its own governance and procedures, and accountable as such. Although I touched upon the terms of the 2006 Bye-Laws, I have not heard detailed submissions or argument thereupon and I have not had to, and nor have I made any findings as to whether and to what extent, consistently with Charity law or the terms of the 1992 Trust Deed or the 2006 Bye-Laws, the Holy Synod, the Patriarch, the Archbishop or the Diocese, has any right to interfere with the internal administration of the Charity. My impression is that the 2006 Bye-Laws confer more autonomy on the Charity than the generic Kale Awadi provides for; perhaps a reflection of the fact that under UK Charity law, charity trustees are required to exercise an independent judgment.

65. This is, as I have already said, an unfortunate dispute and I recognise that there are deep seated ethnic and political, but secular, issues which underline it. Nevertheless, I would hope that in the light of my findings, the parties are now able to find a way forward, recognising a link with the Holy Synod based in Addis Ababa and the Mother Church, but providing through a new constitution a degree of autonomy that the majority of the congregation of the Church can live with.

WordWave International Ltd trading as DTI hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

165 Fleet Street, London EC4A 2DY

Tel No: 020 7404 1400

Email: courttranscripts@DTIGlobal.eu